

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PA ADVISORS, LLC)	
)	
Plaintiff)	
)	
v.)	Civil Action No. 2:07-cv-480 RRR
)	
GOOGLE INC., et al.)	
)	
Defendants.)	
)	

**DEFENDANT YAHOO! INC.'S OPPOSITION TO
PLAINTIFF'S MOTION FOR LEAVE**

Defendant Yahoo! Inc. ("Yahoo!") files this opposition in response to Plaintiff's Motion for Leave filed on January 11, 2010.¹ Plaintiff refers to Yahoo! multiple times in its Motion for Leave, but does not expressly seek leave to file amended infringement contentions against Yahoo!. In fact, Plaintiff misrepresents the discussions which took place between Plaintiff and Yahoo!. Similar to its actions with Google, Plaintiff unilaterally amended infringement contentions served upon Yahoo! without seeking leave of this Court.

Pursuant to the Docket Control Order, Plaintiff had until October 30, 2009 to serve infringement contentions under P.R. 3-6(a), and Yahoo! extended that date twice in response to requests from Plaintiff. On December 16, 2009, Plaintiff and Yahoo! participated in an in-person meet and confer in Dallas, Texas regarding a number of discovery related issues. *See*

¹ Although Yahoo!'s counsel requested a copy of the sealed pleading from Plaintiff's counsel, Plaintiff's counsel declined and noted that it was solely against Google. *See* Exhibit C. Since that time, Yahoo! obtained a copy of the sealed pleading from Google's counsel. Upon review, Yahoo! notes that Plaintiff made a number of misstatements about Yahoo! in this sealed motion, which Plaintiff declined to provide to Yahoo!.

Doan Decl. Exhibit A, ¶ 2. During the in-person meet and confer, Yahoo! offered to allow Plaintiff to serve amended infringement contentions on December 21, 2009 to the extent, and only to the extent, Plaintiff had a good faith basis to amend pursuant to P.R. 3-6(a). *Id.* at ¶ 3. Counsel for Plaintiff, Andrew Spangler, informed Yahoo! that Plaintiff would be amending its infringement contentions on other grounds, not solely pursuant to 3-6(a). *Id.* Yahoo! did not agree to this request, and an agreement did not materialize which would allow Plaintiff to amend its infringement contentions on any grounds without leave of Court. *Id.* Plaintiff, without explaining a basis for doing so and without seeking leave of the Court, served its Amended Contentions on December 21, 2009. *Id.* at ¶ 4; See Exhibit B, Plaintiff’s Amended Disclosure of Asserted Claims and Infringement Contentions Against Yahoo! hereinafter (“Amended Disclosure”).

Because Plaintiff did not seek leave to file its amended infringement contentions against Yahoo!, Yahoo! requests that the Court deny Plaintiff’s motion to the extent it seeks leave to amend as against Yahoo!.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by certified mail, return receipt requested, on this the 20th day of January, 2010.

/s/ Jennifer H. Doan
Jennifer H. Doan